

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

ASHA K. SPAULDING,)	
)	
Movant,)	
)	
v.)	Case No. CV615-107
)	CR612-017
UNITED STATES OF AMERICA,)	CR613-001
)	
Respondent.)	

ORDER

When the time period for objections to the Magistrate Judge's Report and Recommendation (R&R) (doc. 45)¹ expired on March 24, 2016 with no word from Asha K. Spaulding, the Court reviewed the record *de novo*, concurred with the Magistrate Judge, and adopted his R&R the next day. Doc. 48. Three days later, on March 28, 2016, the Clerk received Spaulding's objection, which she signature-filed on March 23, 2016, one day before the objections period ended. Doc. 49 at 5. She now moves the Court to reconsider its R&R adoption, consider

¹ All citations are to the CR613-001 criminal docket unless otherwise noted, all page numbers are those imprinted by the Court's docketing software.

her objection, and decline to adopt thereafter. Doc. 51. She also has filed a Notice of Appeal of the adoption order. Doc. 52.

This Court has been divested of jurisdiction:

Upon the filing of a notice of appeal, the district court is divested of jurisdiction. *See* Fed. R. App. P. 4(b)(5); *see also United States v. Diveroli*, 729 F.3d 1339, 1341 (11th Cir. 2013) (“The filing of a notice of appeal is an event of jurisdictional significance -- it confers jurisdiction on the court of appeals and divests the district court of its control over the aspects of the case involved in the appeal.”) (citations omitted). The only exception to this procedural bar is if a defendant files a motion under Federal Rule of Criminal Procedure 35(a) to correct a sentence that resulted from “arithmetical, technical, or other clear error.” Fed. R. Crim. P. 35(a).

United States v. Mento, 2016 WL 1089678 at *2 (S.D. Fla. Mar. 21, 2016); *Zeigler v. Astrue*, 2010 WL 5129228 at * 1 (E.D. Pa. Dec. 13, 2010). Because Spaulding’s motion goes to aspects of the case now raised on appeal, it is dismissed “without prejudice to refile if it concerns a matter appropriate to be raised after the appeal.” *Sanders v. United States*, 2009 WL 2340435 at *1 (S.D. Fla. July 29, 2009).

SO ORDERED, this 2 day of April, 2016.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA